

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

DEBORAH MILLER, personal
representative of the Estate of Ray A. Miller,

Plaintiff,

v.

**MULTNOMAH COUNTY; AMIT SHAH,
M.D.**, personally and in his official capacity;
**JUDY ARMSTRONG; JACKIE
SINCLAIR**; and **HELEN BLASKO**,

Defendants.

Case No. 3:11-cv-1168-AC

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge John V. Acosta issued Findings and Recommendation in this case on March 31, 2015. Dkt. 104. Judge Acosta recommended that Defendants' motion for summary judgment be granted and that Miller's amended complaint be dismissed.

Under the Federal Magistrates Act ("Act"), the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.

§ 636(b)(1)(C). If a party files objections to a magistrate's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the Court review the magistrate's recommendations for "clear error on the face of the record."

Miller timely filed an objection. Dkt.106. Miller argues that Judge Acosta improperly evaluated the evidence or misapplied the summary-judgment standard. The Court has reviewed *de novo* Judge Acosta's Findings and Recommendation, as well as Miller's objections and Defendants' response. The Court agrees with Judge Acosta's reasoning and ADOPTS the Findings and Recommendation, Dkt. 104. Defendants' motion for summary judgment (Dkt. 71) is GRANTED and Miller's amended complaint (Dkt. 19) is DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 3d day of June, 2015.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge